

**REMARKS**

Applicants submit this Reply in response to the non-final Office Action mailed December 23, 2008. Prior to this Reply, claims 23-44 were pending. In this Reply, Applicants have canceled claims 24, 29, 34, 39, and 43 without prejudice or disclaimer. Accordingly, claims 23, 25-28, 30-33, 35-38, 40-42, and 44 are currently pending, of which claims 23, 33, and 44 are independent.

The pending Office Action rejected claims 23-44 for being unpatentable. In particular, the Examiner rejected claims 23-44 under 35 U.S.C. § 112, second paragraph, for being indefinite, rejected claims 23-44 under 35 U.S.C. § 101 for being directed to non-statutory subject matter, and rejected claims 23-44 under 35 U.S.C. § 102 as being anticipated by WO 02/104055 (*Barbares*).

Applicants respectfully traverse the pending rejections and request reconsideration of the present application in view of the foregoing claim amendments and the following remarks.

**Rejections Under 35 U.S.C. § 112, Second Paragraph**

The Office Action rejected claims 23-44 as being indefinite on various grounds. Regarding claims 23 and 33, the Examiner contended that “inter-work” is vague, that “the system that regulates the operation of the network” and “the system under consideration” do not have sufficient antecedent basis, and that “completely independent” is vague. For claims 24 and 34, the Examiner contended that “individual system” lacks antecedent basis and “having an architecture that is characteristic of the individual system” is vague. The Examiner also found vague the terms “fixed network devices” in claims 25 and 35, “core network” in claims 26 and 36, “relating to said

communication network” in claims 27 and 37, “modules which are common to all systems of said plurality but with partly different operations according to the related system” in claims 29 and 39, and “so-called core network” in claims 30 and 40. Finally, the Examiner concluded that “core network” in claims 26 and 36, “said communication network in said second set” in claims 27 and 37, and “so-called core network” in claims 30 and 40 lack antecedent basis.

In response, Applicants have deleted claims 24, 29, 34, 39, and 43 without prejudice or disclaimer and have amended the remaining claims to clarify their subject matter. Support for the amendments can be found throughout the Specification and Drawings, such as at 3:13-8:16, 9:17-11:20, and 11:21-15:14. No new matter has been introduced. The pending claims as amended satisfy the requirements of Section 112, second paragraph, and the claim modifications render moot the indefiniteness rejections. Accordingly, the Examiner should withdraw the rejections under Section 112.

#### **Rejections Under 35 U.S.C. § 101**

The Office Action also rejected claims 23-44 for failing to provide any tangible result. In response to this rejection, and without conceding the Examiner’s arguments regarding alleged non-statutory subject matter, Applicants have amended independent claims 23, 33, and 44 to recite, in part, “assigning to each device software modules relating to different functionalities managed by the device” and “modeling, on the digital computer, the mobile terminal devices as a grouping of modules simulating behavior of different communication protocols.” These recitations, among others in the pending claims, directly tie the claims to a digital computer and address a tangible result. As a

result, Applicants respectfully request withdrawal of the rejection of claims 23-44 under Section 101.

**Rejections Under 35 U.S.C. § 102**

Applicants respectfully traverse the rejection of independent claims 23, 33, and 44 under 35 U.S.C. § 102.<sup>1</sup> In order to properly establish an anticipation rejection under 35 U.S.C. § 102, every element of the claims at issue must be found in the applied prior-art reference, either expressly or under principles of inherency. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). In this case, *Barbaresi* fails to teach or suggest every element of Applicants’ claims, as amended.

Independent claim 23, 33, and 44, as amended, are patentably distinguishable from *Barbaresi* in that they recite, for example, identifying a first set of system-independent devices; identifying a second set of system-dependent devices including mobile terminal devices; identifying a third-set of interaction devices; assigning each device software modules relating to different functionalities managed by the device; and modeling on a digital computer the mobile terminal devices as a grouping of the modules simulating behavior of different communication protocols comprising:

---

<sup>1</sup> The Office Action quotes Section 102(a) as “the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action,” but then states that “Claims 23-44 are rejected under 35 U.S.C. 102(b).” Since *Barbaresi* was published on December 27, 2002, less than one year before the international filing date of the present application, it does not qualify as prior art under Section 102(b). Therefore, Applicants presume that the Examiner’s anticipation rejections were made under Section 102(a).

application modules having a same implementation for a plurality of different telecommunication systems, access modules being specific for one of the plurality of different telecommunication systems, and core network modules being used by the plurality of different telecommunication systems but with partly different operation for each of the plurality. As explained in the present application, this system "introduces into the simulator an architecture of the devices and of the related modules that is able to allow processing operations in which voice and data telephone calls with different systems can be simulated: for example, simulations can be conducted simultaneously with GSM/GPRS users and UMTS users." Spec. at 9:24-30.

In contrast, *Barbaresi*, which is discussed in the Background of Applicants' Specification, discloses a system and method for simulating the behavior of a network where the simulated mobile terminal devices comprise modules representative of protocol layers related with a single cellular system (GSM or GPRS). Devices GSM-MS and GPRS-MS in *Barbaresi* represent separate mobile units each comprising modules representing protocol layers related with a GSM system and GPRS system, respectively. See *Barbaresi* at 7:11-19. *Barbaresi* does not disclose or suggest modifying these discrete mobile terminal devices so they can operate with a plurality of different telecommunication systems simultaneously.

Dependent claims 25-28, 30-32, 35-38, and 40-42 are additionally allowable due at least to their dependence on independent claims 23, 33, and 44, for the reasons set forth above. Moreover, dependent claims 28 and 38 are further patentably distinguishable from *Barbaresi* because they specify, for example, that "the modules of said mobile terminal devices comprise a part that is common to all the systems of said

plurality [of telecommunication systems] and a part that is specific for the one of the plurality." By focusing on simulations of mobile units for a specific telecommunication system, *Barbaresi* neither discloses nor suggests this subject matter. In addition, dependent claims 32 and 42 specify various communications between modules in the mobile terminal devices and modules in devices elsewhere in the network, and also are patentably distinguishable from *Barbaresi*.<sup>2</sup>

In sum, the pending claims, as amended, are patentably distinguishable over *Barbaresi*. Consequently, Applicants respectfully request that the Examiner reconsider the rejections over prior art in light of the amended claims and pass pending claims 23, 25-28, 30-33, 35-38, 40-42, and 44 to issue.

### **Conclusion**

The preceding remarks are based only on the assertions in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other possible bases of patentability.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

---

<sup>2</sup> The Office Action contains a number of statements characterizing the claims and related art. Regardless whether any such statement is identified in this Reply, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 23, 2009

By: 

R. Bruce Bower  
Reg. No. 37,099  
(404) 653-6465